

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

NATHAN EVAN GARDNER,	:	
	:	
Petitioner	:	
	:	
VS.	:	
	:	NO. 5:06-CR-60 (HL)
UNITED STATES OF AMERICA,	:	
	:	
Respondent	:	<u>ORDER</u>

Before the Court is petitioner **NATHAN EVAN GARDNER’S** motion for a certificate of appealability (“COA”) from the Court’s March 3, 2009 order accepting the recommendation of United States Magistrate Judge Mallon G. Faircloth that petitioner’s request for 28 U.S.C. § 2255 relief be denied.

To obtain a COA, a section 2255 movant must make a substantial showing of the denial of a constitutional right. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). For the reasons stated in United States Magistrate Judge Faircloth’s recommendation and this Court’s order accepting the same, the Court finds that petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Accordingly, the application for a COA is **DENIED**.

Also before the Court is petitioner’s motion for leave to proceed *in forma pauperis* on appeal (Tab # 73). Said motion is **DENIED AS MOOT**.

SO ORDERED, this 17th day of March, 2009.

s/ **Hugh Lawson**
HUGH LAWSON
UNITED STATES DISTRICT JUDGE